

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA, et al.,

Plaintiffs,

v.

STATE OF WASHINGTON, et al.,

Defendants.

CASE NO. C70-9213 RSM

SUBPROCEEDING NO. 17-03 RSM

ORDER

This matter is before the Court on the Swinomish Indian Tribal Community’s Motion to Set Extended Date for Submission of Post-Trial Briefs. Dkt. #279.¹ Swinomish requests that the Court grant the parties additional time for post-trial briefing and to respond to the questions posed by the Court. Swinomish’s motion “does not seek to re-schedule [closings] or to change the deadline for submission of proposed findings of fact and conclusions of law.” *Id.* at 2. Stillaguamish opposes the motion, argues that good cause does not exist for the request, and asks that the Court deny the motion. Dkt. #280.² The other principal participants, Tulalip and Upper Skagit, join in Swinomish’s request. Dkts. #282³ and #283.⁴ Additionally, seven interested

¹ Dkt. #22519 in Case No. C70-9213RSM.

² Dkt. #22520 in Case No. C70-9213RSM.

³ Dkt. #22522 in Case No. C70-9213RSM.

⁴ Dkt. #22523 in Case No. C70-9213RSM.

1 parties⁵ have joined in Swinomish's request for additional time. Dkt. #284.⁶ Finding good cause,
2 the Court grants the motion in part and reschedules the events remaining in this subproceeding.

3 Following the conclusion of the bench trial in this subproceeding, the Court requested
4 that the parties (and any interested parties inclined to do so) respond to various questions that
5 arose. In a subsequent order, the Court laid out questions, set closing arguments for May 9, 2022,
6 and requested that the parties submit, by that date, proposed findings of fact and conclusions of
7 law and post-trial briefing addressing the Court's questions and remaining issues. Dkt. #278.⁷
8 Several of the Court's questions touched on issues that were specifically implicated in this
9 subproceeding while also holding broad significance within the underlying case.

10 The Court recognizes the breadth of issues and potential implications to think through
11 and the need for attorney-client discussions and agrees that additional time is warranted. The
12 Court is especially concerned with the impact upon the interested parties. The Court does not
13 doubt that Swinomish and its counsel have considered many of the issues implicated by this case
14 and are meticulously familiar with the evidence. While the deadline may have been burdensome,
15 it could be met. But the interested parties must do far more to get up to speed on the specific
16 issues and broader implications of the Court's questions. They may need to consult extensively
17 with their clients, research new issues or review prior issues with new eyes, and familiarize
18 themselves with the extensive evidentiary record in this subproceeding and the underlying case.
19 While the Court is mindful of Stillaguamish's concerns over further delay, the weeks or months
20 at issue pale in comparison to the decades that Stillaguamish has pursued its claims.

21
22 ⁵ Those interested parties are the Squaxin Island Tribe, the Hoh Indian Tribe, the Skokomish
23 Tribe, the Jamestown S'Klallam Tribe, the Port Gamble S'Klallam Tribe, the Nisqually Tribe,
and the state of Washington.

24 ⁶ Dkt. #22524 in Case No. C70-9213RSM.

⁷ Dkt. #22518 in Case No. C70-9213RSM.

The Court is concerned, however, about bifurcating post-trial briefing from closing arguments and the submission of proposed findings of fact and conclusions of law. As Stillaguamish notes, the Court will benefit if the parties address the specific issues of this case within the broader context of the underlying case. The Court will not be served by severing the events, thereby inviting narrowed perspectives and deliberations. Accordingly, the Court also changes the date for hearing closing arguments and for the submission of proposed findings of fact and conclusions of law.

The Court, having reviewed the motion and related briefing and the remainder of the record finds good cause for extending certain deadlines and ORDERS as follows:

1. The Swinomish Indian Tribal Community's Motion to Set Extended Date for Submission of Post-Trial Briefs (Dkt. #279) is GRANTED in part.
2. The Court sets the following schedule for the resolution of this matter:

Deadline for the Submission of Proposed Findings of Fact and Conclusions of Law:	June 3, 2022
Deadline for Post-Trial Briefing Addressing the Court's Questions and Remaining Issues of Law:	June 3, 2022
Closing Arguments:	June 7, 2022 9:00 a.m.

Dated this 29th day of April, 2022.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE